

GUR Investments, LLC)		
)		
Plaintiff,)		
)		
Vs.)		
)		
Kendra Wright and)	Civil Action No.:	JP13-09-001506
Jakeiah Hill)		
)		
and)		
)		
O & M Property Management LLC)	Civil Action No.:	JP13-09-001507
)		
Defendants.)		

TRIAL DE NOVO

Initial filings list named Omari Faust and Traci Morton as defendants under civil action number JP13-09-001507. The filing was amended to name O & M Property Management, LLC as the defendant. Because plaintiff was unable to determine an amount he felt due to him from the defendants, individually or collectively, the cases were combined for the trial and appeal.

Plaintiff presented two pre-trial motions.

Plaintiff moved to compel the production of certain documents. Plaintiff stated he requested a subpoena on March 27, 2009, for documents he felt should have been

supplied under a property management contract plaintiff had with O & M. Plaintiff stated he did not receive the information and requested another subpoena on July 13, 2009. Plaintiff did not receive documentation and moved to compel production. A Rule to Show Cause hearing was conducted on August 21, 2009. Documents were produced which plaintiff did not feel were sufficient. The Honorable Nancy Roberts ruled the documents presented were sufficient and other documents requested created confidentiality concerns for other clients of O & M. The appeal panel agreed with Judge Robert's ruling and noted that action could have been taken for the production of business documents in a court of competent jurisdiction at the time of the termination of the management contract. The court denied the plaintiff's motion to compel.

Plaintiff then moved to amend the filing on Civil Action Number JP13-09-001507 so the individuals originally named would be the defendants rather than O & M Property Management. Plaintiff cited 6 Del. C. sec. 3101 and stated the required filing to register O & M had not been made in the Prothonotary's office at the time the management contract had been signed. Defendant O & M said it was not notified of this motion prior to trial and was unprepared to argue the motion. O & M testified that Plaintiff knew they were in the process of organizing their business. The Court stated it would reserve judgment on this motion. The Court now rules that plaintiff contracted with Omari Faust and Traci Morton as O & M Property Management. Plaintiff was aware of the identities of the partners and of the company that was being formed. Section 3101 is a requirement of notice, through a filing with the Prothonotary, of the participants in an entity to persons who would be conducting business with said entity. In this case, Plaintiff had notice of the persons involved in O & M Property Management and had contracted with them as the entity. Because Plaintiff was not harmed by an untimely filing, Plaintiff's motion is denied.

PLAINTIFF'S DEMANDS

Plaintiff requested a return of the security deposit based on alleged damages of \$807.81, return of money he paid for the repair of a leak from the shower, reimbursement of attorney fees, interest on money he felt he is owed and reimbursement of water and sewer bills.

STATEMENT OF FACTS

On February 15, 2008, plaintiff contracted with Imagica Construction, doing business as O & M Property Management, to manage the rental of plaintiff's property located at 931 E. 17th Street, Wilmington, Delaware. O & M, acting on behalf of plaintiff, entered into a rental agreement on February 15, 2008 with Wright and Hill. It should be noted the rent was due on the fifteenth of each month. A security deposit of \$800.00 was paid to O & M along with a pet deposit of \$75.00. The lease called for a late fee of \$40.00 and stated that tenant would pay water bills upon presentation from Landlord. Records from O & M

indicate that rent payments were presented on time in February, March, April and May, 2008. Per section thirteen of the management contract, O & M would received one half of the first months rent and 10% of all other revenues collected with the management fees deducted from the amounts collected and the balance paid to the plaintiff. There is no indication in the documentation that the first \$400.00 was paid to plaintiff. Plaintiff's and O & M's records indicate the appropriate payments for March, April, May and September were presented to plaintiff.

Hill and Wright did not make full or timely payments in June, July or August, 2008. A payment of \$420.00 was made by Hill and Wright on July 3, 2008 and paid in full to plaintiff. Hill and Wright made a payment of \$540.00 on August 18, 2008 of which \$100 was presented to plaintiff. Plaintiff's records indicate receipt of \$391 on August 12, 2008 for which O & M shows no receipt or disbursement.

Plaintiff sent a certified letter dated November 24, 2008 to O & M terminating the contract. O & M entered into evidence what appears to be the original letter with "file copy" stamped on it. Plaintiff entered into evidence, a letter dated November 24, 2008, which stated the contract would be terminated on February 14, 2009. O & M's payment document reads "contract ended per client" on January 15, 2009. Plaintiff's "Summary of Rental Income shows \$840.00 received from Hill and Wright on January 15, 2009. The same document indicates that Hill and Wright owe \$840.00 for the February, 2009 payment. The rental unit was vacated the beginning of March, 2009.

Plaintiff entered a letter dated March 9, 2009 into evidence where he made a demand on Hill and Wright for \$232.80 for water and sewer bills. There was no evidence of any payment on the water and sewer bills.

Plaintiff provided a list of damages to the unit and cost of repairs for a total of \$807.71. Plaintiff also offered pictures of the alleged damages into evidence. Wright testified that Wright and Hill were responsible for the damages to the blinds and one of the doors and had not removed all of their items from the unit. Testimony and pictures were insufficient to prove who was responsible for damage to the bathroom door knob, screens, sinks and kitchen cabinet.

DECISION AND ORDER

The Court holds:

1, The court finds the plaintiff should have received first month rent of \$400.00 and nine months of rent at \$720.00 per month for a total rent of \$6880.00 plus the \$800.00 security and \$75.00 pet deposits for a total of \$7755.00. Plaintiff's records indicate he received \$3791. Plaintiff is awarded \$3964.00, courts costs of \$40.00 and post judgment interest of 5.50% from Defendant O & M.

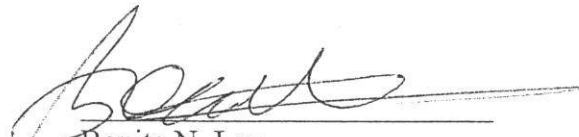
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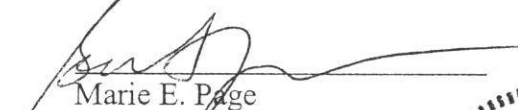
2. The court finds the plaintiff is entitled to one month rent and late fee of \$840.00, water and sewer bills of \$232.80, damages of \$345.03 (doors and labor, mini-blinds, carpet cleaning, flea treatment, cleanout of house) less the \$800.00 security deposit and pet deposit of \$75.00. Plaintiff is awarded \$542.83, court costs of \$40.00 and post judgment interest of 5.5% from Defendants Hill and Wright.

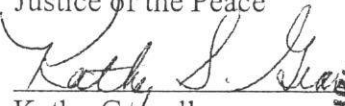
3. There is no award for reimbursement for the shower repairs. Landlord is responsible for repairs of this type whether they are partially or fully successful.

4. There is no award for attorney fees. The court agrees this is a debt action, but finds the billing is not specific enough to associate the costs with this action.

IT IS SO ORDERED this 30th day of September 2009.


Bonita N. Lee
Justice of the Peace


Marie E. Page
Justice of the Peace


Kathy Gravell
Justice of the Peace

